

HARMON, CURRAN, SPIELBERG & EISENBERG, LLP

1726 M Street, NW, Suite 600 Washington, DC 20036

(202) 328-3500 (202) 328-6918 fax

February 4, 2005

By Messenger

Brant S. Levine, Attorney
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR
League of Conservation Voters Action
Fund, and Gwendolyn Sommer, as Treasurer
The League of Conservation Voters 527, Respondents

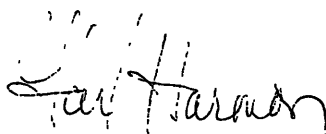
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2005 FEB -7 A 10:12

Dear Brant:

Per our previous correspondence and discussions, enclosed please find Respondents Submission on the Organization and Operation of the League of Conservation Voters, Inc. and How LCV Differs from Americans for a Better Country, the Requestor of Advisory Opinion 2003-37, with supporting Exhibits and Attachments. We believe that this submission and the supporting documentation provide the Commission with a comprehensive view of LCV and Respondents' structure and operations and establish that they do not fit the legal theory on which the Commission's Reason to Believe finding is based.

Please note that because Debra Callahan, President of LCV, is out-of-town, she has executed her Declaration, Attached as Exhibit A, and returned it to us via facsimile. We will submit the original of her executed Declaration as soon as we obtain it from her.

Sincerely,


Gail Harmon

Enclosures

cc Debra Callahan, League of Conservation Voters

26044151701

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
League of Conservation Voters)
Action Fund and Gwendolyn M.)
Sommer, as Treasurer)
)
and)
)
League of Conservation Voters 527,)
)
Respondents.)

**RESPONDENTS' SUBMISSION ON THE ORGANIZATION AND OPERATION
OF THE LEAGUE OF CONSERVATION VOTERS, INC. AND HOW LCV
DIFFERS FROM AMERICANS FOR A BETTER COUNTRY,
THE REQUESTOR OF ADVISORY OPINION 2003-37**

As demonstrated below, the League of Conservation Voters, Inc. ("LCV") is a Qualified Nonprofit Corporation ("QNC") that uses its 527 fund for the purpose of funding certain legally permissible political activities. The fact that LCV also has separately created a connected federal political action committee ("PAC") that complies with federal election law does not convert LCV and Respondents into a group of entities like Americans for a Better Country ("ABC"), the non-connected Federal political committee that requested Advisory Opinion 2003-37. Indeed, LCV is not a political committee. It is a nonprofit advocacy organization that was clearly permitted to use its 527 account to fund its political speech in 2004 in accordance with the Federal Election Campaign Act ("FECA"), the Bipartisan Campaign Reform Act of 2002 ("BCRA"), and the Federal Election Commission's ("FEC" or "Commission") own regulations.

26044151702

I. Structure and Operations of LCV

A. Structure of LCV

LCV is a Maryland nonprofit membership organization that is classified by the Internal Revenue Service as tax exempt under section 501(c)(4) of the Internal Revenue Code and that qualifies as a QNC under FECA, 11 C.F.R. § 114.10. Affidavit of Debra J. Callahan at ¶ 2 (attached hereto as Exhibit A) ("Aff."); Legal and Factual Analysis supporting the Commission's Reason to Believe finding at 2 (acknowledging LCV's status as QNC). The express purpose of LCV is the promotion of political ideas, and today, LCV is regarded as the political voice of the environmental movement. It has over 40,000 members, and regularly communicates with more than 200,000 Americans on issues affecting the conservation of the environment. Aff. at ¶ 3.

For more than thirty five years, LCV has played a crucial role in advocating for environmental policy on the full spectrum of environmental topics including clean air and clean water, energy usage, climate change, public lands, toxic substances, oceans, and endangered species. LCV has an active policy advocacy team that works closely with other members of the environmental community to identify environmentally significant proposals, including regulations and policy guidance issued by federal agencies, bills, amendments and legislative riders. During each session of Congress, LCV sends letters to Capitol Hill detailing its positions on these issues. Through its regional offices, LCV enhances the power of the entire environmental community by building coalitions, promoting grassroots power, and training the next generation of environmental leaders. Aff. at ¶ 4.

Consistent with its QNC status, LCV has adopted policies preventing it from engaging in business activities. It has no shareholders or other persons with an ownership interest. LCV

offers no benefits which would be a disincentive for members or contributors to disassociate. LCV was not established by a labor union or a business corporation, and it does not directly or indirectly accept donations from business corporations or labor organizations. Aff. at ¶ 5.

On April 25, 1997, LCV's Board of Directors approved the creation of a 527 fund as a part of LCV. Aff at ¶ 6 and Attachment 1 to Exhibit A (Excerpt from Minutes of Meeting of LCV Board of Directors and Staff Memorandum Presented to Board at Meeting (April 25, 1997)).¹ As noted in the Board minutes, the LCV 527 account was opened for the purpose of accommodating the federal tax planning objectives of some of LCV's major donors. Attachment 1. Because gifts to section 501(c)(4) organizations are subject to the gift tax, but those to 527 accounts are not,² individual donors or members wishing to give LCV more than the annual gift-tax exclusion (currently \$11,000 per year) sought this new fund to protect their donations from gift tax. Aff. at ¶ 6. As also noted in the Board minutes, LCV envisioned paying for a broad range of its existing electorally-related activities out of the 527 account. Aff. at ¶ 6 and Attachment 1.³

¹LCV is submitting this excerpt from the Board meeting minutes, as well as the other documents included as attachments to Exhibit A, as evidence of how LCV is structured and operated and of how LCV differs from political committees like ABC, the requester in AO 2003-37.

²26 U.S.C. § 2501(a)(5) (2004); *see* Rev. Rul. 82-216, 1982-2 C.B. 220 ("gratuitous transfers to persons other than organizations described in section 527(e) of the Code are subject to gift tax absent any specific statute to the contrary, even though the transfers may be motivated by a desire to advance the donor's own social, political or charitable goals").

³LCV could pay for these activities with 527 funds because such activities qualify as an "exempt function" under section 527 of the Internal Revenue Code Internal Revenue Service private letter

LCV 527 is not an organization or association. It has no independent governing board; it is not organized pursuant to any articles of incorporation or organization; it has no authority to enter into contracts or own property under the law of any state; and it has never hired employees or consultants. LCV 527 is simply a segregated bank account owned by LCV and operated entirely under the control of LCV's management and staff. Aff. at ¶ 7.

LCV has consistently treated and operated its 527 fund as part of LCV. LCV's employer identification number was used by the 527 account before 527 funds were required to have their own identification numbers. Aff. at ¶ 8. LCV's Board of Directors evaluates budgets that include the 527 account as part of LCV's general funds and distinct from its PAC funds. Aff. at ¶ 8 and Attachment 2 to Exhibit A (LCV Income Budget for 2004 Compared with Prior Years (2004)). LCV described its 527 account as affiliated with LCV in the Form 8871 filed in 2000, when changes to the Internal Revenue Code required LCV to notify the IRS of the existence of LCV 527 in order for the account to continue to qualify for tax exemption under section 527.

Aff. at ¶ 9 and Attachment 3 to Exhibit A.⁴ Because the 527 fund is a part of LCV, it is operated

rulings issued shortly before the creation of the LCV 527 account described 527 accounts financing activities which corporations may conduct under applicable election laws but which also qualify as an exempt function under section 527. Contemplated activities to be funded by LCV 527 included many activities not regulated under FECA such as Congressional voting records and voter guides, *see* Priv.Ltr. Rul. 965026 (Oct. 1, 1996), information on campaign contributions and past or current affiliations of candidates, *see id.*, and grassroots lobbying messages indicating legislators' stance on environmental legislation, *see* Priv. Ltr. Rul. 9725036 (Mar. 24, 1997). Aff. at ¶ 6.

⁴LCV did not certify on the Form 8871 that its 527 account was also affiliated with its federal political action committee, LCV PAC, because LCV 527 is not a non-federal account of LCV PAC. Aff. at ¶ 9. In contrast, other organizations that use their 527 accounts as a non-federal account of a PAC identify the PAC as an affiliated or connected organization on the Form 8871. *See, e.g.*, Form 8871 of Club for Growth and Form 8871 Club for Growth.net (attached as Exhibit B).

in conformity with the same restrictions that apply to LCV as a QNC. In particular, it receives no donations from business corporations or labor unions. Aff. at ¶ 10.

LCV also has a connected PAC, operated as a separate segregated fund under the provisions of 2 U.S.C. § 441b(b) and named the League of Conservation Voters Action Fund ("LCV PAC"). Aff. at ¶ 11. Consistent with the requirements of FECA, LCV regularly reports the activities of LCV PAC to the FEC and complies with the other legal requirements applicable to its operations. Since its establishment, LCV PAC has been filing required reports with the Commission. Aff. at ¶ 11.

Like LCV 527, LCV PAC is a bank account owned by LCV and operated entirely under the control of LCV's management. LCV PAC is not an organization or association. It has no independent governing board; it is not organized pursuant to any articles of incorporation or organization; it has no authority to enter into contracts or own property under the law of any state; and it has never hired employees or consultants. Aff. at ¶ 12.⁵

B. Operation of LCV

Consistent with its constitutional rights, LCV engages in a broad range of activities that may be considered political. LCV regularly lobbies Congress and the Administration on proposed legislation, regulations, and other government action affecting the environment. It also educates the public and influences public opinion on environmental policy through broadcast

⁵In addition to its 527 and PAC accounts, LCV maintains a number of other separate bank accounts. LCV also has a main 501(c)(4) operating account, a credit card processing account, a low donor 501(c)(4) account used for cashiering responses to direct mail campaigns, and a high interest money market account. Like the 527 and PAC accounts, all are operated under the control of LCV's management. Aff. at ¶ 13.

communications, grassroots campaigns, press releases, meetings with editorial boards, communications to its members, and via its website. LCV uses these communication methods to engage in discussion with the public on environmental issues, including the positions and voting records of federal officeholders and candidates. In addition to these activities, LCV also makes independent expenditures, as defined under FECA, consistent with its status as a QNC organization. Aff. at ¶ 14.

LCV pays for many of these activities using funds from its 527 account. LCV's 527 account pays for the publication of LCV's signature document, the National Environmental Scorecard, which identifies critical environmental votes and reports on how each member of Congress voted on these important issues. Aff. at ¶ 15.⁶ LCV's 527 account also finances advertisements on important issues of environmental policy, which often include the views of officeholders or candidates on these issues. Aff. at ¶ 16.⁷ During the final months of hotly contested federal election campaigns such as that in 2004, LCV communications paid for by its 527 account are naturally likely to be more closely tied to elections. These include membership communications, electioneering communications reported to the Commission, and a variety of non-broadcast, non-express advocacy communications. Aff. at ¶ 17.⁸ All of these activities are

⁶The preliminary version of the scorecard published in the fall of 2004 is contained in the newsletter included as part of Attachment 5 to Exhibit A.

⁷One of these advertisements -- the advertisement that aired on CNN in selected Florida markets from May 18, 2004 through May 25, 2004, criticizing President Bush's position on drilling off the coast of Florida which is challenged in the Reason to Believe Finding -- is attached as Attachment 4 to Exhibit A.

⁸Attached as Attachment 5 to Exhibit A are all of the known public communications, as defined in 11 C.F.R. § 100.26, paid for in whole or in part with funds from LCV's 527 account during the period September 1, 2004 through November 8, 2004.

carried out in the name of LCV; there are no activities carried out in the name of the 527 account.

Aff. at ¶ 18.

LCV does not solicit funds specifically for its 527 account. The same categories of donors can give to either LCV or LCV's 527 account and in the same amounts (other than having gift tax costs). Consequently, LCV has no need to pursue funds for its 527 account that otherwise could not be contributed to LCV. Further, as a section 501(c)(4) QNC, LCV can use its general treasury dollars for all of the same political activities that are paid for by the 527 account. Consequently, LCV has no need to pursue money for its 527 account to pay for activities that otherwise could not be conducted by LCV. Aff. at ¶ 19. Therefore, consistent with the purposes for which the 527 account was set up, in its solicitations LCV simply attaches to its basic proposals for major donors standard documents describing "Ways of Giving" to LCV. These attachments disclose the federal tax risks of large gifts to the section 501(c)(4) organization and the availability of the 527 account as an alternative recipient to avoid gift tax problems. Aff. at ¶ 20.⁹

Consistent with the requirements of FECA, LCV uses LCV PAC primarily to make monetary and in-kind contributions to candidates. All of the expenditures of its PAC are disclosed on the reports LCV has regularly filed with the FEC, and all of its activities are carried out in the name of LCV PAC. Aff. at ¶ 21.

⁹Attached as Attachment 6 are all of the known forms of solicitations made by or referencing LCV's 527 account during 2004. There are no scripts for solicitation of funds for the 527 account.

II. AO 2003-37 Cannot be Applied to LCV and Respondents Because LCV is Materially Different in Structure and Operation from ABC, the Subject of Advisory Opinion 2003-37.

The reasoning and analysis of AO 2003-37 rests on the structure and proposed operations of its requestor, ABC. Because LCV and Respondents are structured and operated in a manner that is materially different from ABC, AO 2003-37 cannot serve as the basis for the Commission's investigation of Respondents.

As represented in the AO at 1, ABC was an unincorporated, non-connected political committee organized with Federal and non-Federal accounts. Thus, ABC was a free standing association with its own directors, officers, staff and consultants. Advisory Opinion Request from Keith A. Davis, Treasurer, ABC, to Commissioners at 3 (Nov. 18, 2003) ("Ad. Op. Req."). Importantly, ABC was not a QNC freed of the fundraising restrictions of a federal political committee and with all of the accompanying constitutional rights to engage in political activities outside the limitations of FECA. ABC was not set up as a section 501(c)(4) organization, and ABC specifically acknowledged it would be receiving donations from business corporations, unions, and trade associations. *See* Ad. Op. Req. at 1. In addition, neither ABC nor its Federal and non-Federal accounts were in any way connected with a QNC. *See generally* Ad. Op. Req. Instead, the Form 8871 filed on behalf of ABC's 527 specifically indicates that it is a non-Federal PAC affiliated with its Federal PAC. *See* ABC Form 8871 (attached as Exhibit C).

ABC's non-Federal account was created as a mechanism to solicit and use funds that its affiliated PAC could not receive, such as large contributions from individuals and contributions from business corporations or labor organizations. Because ABC was unconnected with a corporation that had funds available to pay for election related activities, ABC planned to

actively raise funds for its non-Federal account to be used to pay for political activities not subject to the limitations of FECA. Ad. Op. Req. at 1.

As described above at pages 2-7, LCV, with its connected 527 account and PAC, is materially different from ABC. LCV is not a political committee. Critically, LCV is a completely different type of tax-exempt entity -- a QNC as described in the Commission's regulations at 11 C.F.R. § 114.10 that happens to have as two of its bank accounts a 527 account and a PAC. In contrast to ABC, except for a treasurer for the PAC required by the FEC, neither LCV's 527 account nor its PAC has any employees, consultants, directors, or officers. LCV has consistently treated its 527 account as part of LCV, as evidenced by the use of the same employer identification numbers for both LCV and LCV 527 for a period of time, by the Board budget documents which group LCV and LCV 527 together, and by LCV's identifying the 527 account as affiliated solely with LCV in the Form 8871 because LCV 527 is not a non-federal account of LCV PAC. LCV's 527 account was set up simply as a fund of LCV to accommodate its donors' tax planning needs. Moreover, since LCV itself can raise funds outside the limitations of FECA, the 527 account was not necessary for this purpose. Unlike ABC, LCV does not use its 527 account to solicit different types of donors or higher dollar amounts than it otherwise could.

Because of the differences in LCV's structure and operations from those in ABC, the reasoning of AO 2003-37 cannot be applied to LCV and Respondents. Within the first paragraph of AO 2003-37, the Commission goes out of its way to state that "the fact that ABC is a political committee is particularly relevant. [AO 2003-37] does not set forth general standards that might be applicable to other tax-exempt entities." This limiting language in the AO was a direct response to the concerns expressed by the 501(c) nonprofit community at the time of the drafting

of AO 2003-37 that the FEC would try to broadly apply the reasoning of AO 2003-37 to 501(c) nonprofit organizations. Commissioners Weintraub and Toner were particularly clear at the time of the adoption of AO 2003-37 that its applicability to other organizations was narrow. *See* "Independent Political Committees must use 'Hard Money' for Federal Races, FEC Rules," *Money and Politics*, February 19, 2004. The AO is only meant to be applied to a Federal account attempting to evade the rules of FECA through creation of a non-Federal account. The narrow scope of AO 2003-37's applicability has been further confirmed by the failure of the Commission to include the "PASO" concept in the recently approved Final Rules and Explanation and Justification for Political Committee Status.¹⁰

Accordingly, LCV and Respondents cannot be converted into or treated the same as the quite different entity that was ABC. In fact, applying AO 2003-37 to LCV and Respondents would violate the Commission's representations that it would not use the AO to force section 501(c)(4) organizations to change their current funding and operations. Instead, LCV and Respondents must be regulated within the legal framework that has developed to protect the constitutionally protected expressive rights of QNCs.

¹⁰Final Rules and Explanation and Justification for Political Committee Status, Agenda Doc. 04-100, pp. 3-11, 44, as amended by Agenda Doc. 04-100-A, approved by the Commission on October 28, 2004 (adding section 100.57(a) to the Commission's regulations, which treats as a contribution "anything of value made by any person in response to any communication . . . if the communication indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate.") (emphasis supplied).

III. LCV, as a QNC, May Engage in a Broad Range of Political Activities Using the Funds in its 527 Account.

A. Under Settled Law, LCV May Engage in a Broad Range of Political Activities Using its Own Treasury Funds, Rather Than Those of its PAC.

Consistent with the reasoning of *Buckley v. Valeo*, 424 U.S. 1, 39-51 (1976), and as reflected in current FEC regulations, 11 C.F.R. § 114.4, there is no doubt that corporations, including QNCs, may finance from their general treasury funds a broad range of political activities without regulation by the FEC. BCRA did not change this ability. In rejecting the equal protection challenge brought by the Republican National Committee, the Supreme Court found that after BCRA “interest groups . . . remain free to raise soft money to fund voter registration, GOTV activities, mailings and broadcast advertising (other than electioneering communications).” *McConnell v. FEC*, 540 U.S. 93, 187-88 (2003).

In addition, QNCs like LCV have a constitutional right to make independent expenditures without either violating the prohibitions imposed by FECA on corporate spending in federal elections or being subject to the requirement to register as a political committee with the Commission. *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“*MCFL*”); 11 C.F.R. § 114.10(d). Similarly, under *McConnell*, 540 U.S. at 211, QNCs can engage in electioneering communications without thereby converting them to political committees so long as they comply with the applicable reporting requirements of the regulations. *See also* 11 C.F.R. §§ 114.10(d) and (e).

It is important to note that a QNC may engage in these political activities, independent expenditures, and electioneering communications *even if* the QNC also has a separate segregated fund registered as a political committee with the Commission. *See MCFL*, 479 U.S. at 255 n.8

26044151713

(recognizing that MCFL had established its own political committee). The existence of a federal PAC that is connected to the QNC does not alter the regulatory scheme and require that these activities be funded through the PAC.

Applying these principles, there is no doubt that LCV, a QNC, in addition to LCV PAC, can engage in the types of activities the FEC has challenged in its Reason to Believe Finding – the website activities and CNN advertisement. LCV has a clear right to include statements on its website stating that solicited funds might be used to support or oppose candidates. Indeed, it is obligated to do so. 11 C.F.R. § 114.10(f) (*requiring* QNCs to include such language in connection with the solicitation of funds). LCV also has a clear statutory right to use its website to educate voters about the positions of candidates and to solicit funds in support of these educational activities. *See generally Buckley v. Valeo*, 424 U.S. 1 (1976); *McConnell v. FEC*, 540 U.S. 93 (2003) (under current law FEC may only limit public communications that expressly advocate for or against federal candidates, are coordinated with federal candidates, or that qualify as electioneering communications).

Similarly, there is no doubt that LCV may run television advertisements such as the CNN ad criticizing President Bush's position on drilling off the coast of Florida. Corporations may make such public communications so long as they are not coordinated with any candidate or party, do not expressly advocate for the election or defeat of any candidate, and do not constitute electioneering communications as defined under FECA. *See generally Buckley v. Valeo*, 424 U.S. 1 (1976); *McConnell v. FEC*, 540 U.S. 93 (2003). The advertisement in question was not coordinated with any candidate or party, did not expressly advocate for the defeat of President Bush, and did not qualify as an electioneering communication. *Aff.* at ¶ 16. Moreover, LCV, as

a QNC, may even engage in independent expenditures and electioneering communications as defined in the regulations, so long as it complies with the applicable law. *See* 11 C.F.R. § 114.10(d).

As was true for the QNC at issue in *MCFL*, the fact that LCV has a connected political committee, LCV PAC, in no way changes LCV's right to conduct these types of solicitations and to make these public communications using its own general treasury funds. Thus, there is no doubt that, but for the fact that LCV established a 527 account to help major donors address potential gift tax problems and then used those funds to pay for certain LCV permissible political activities, the FEC would not even have issued a Reason to Believe Finding in this matter. The law is clear that all of these activities are permissible ones for LCV.

B. LCV, as a QNC, is Legally Permitted to Engage in the Challenged Activities Using its 527 Account Funds, Rather Than Those of its PAC.

Under the applicable law, it is also clear that, instead of using the funds in its 501(c)(4) account for the purpose of conducting the political activities discussed above, a QNC can use the unlimited individual contributions in its 527 bank account for the purpose of funding some of these same political activities. The existence of the 527 account does not deprive a QNC of its constitutional rights and allow the FEC to treat this separate bank account as an arm of federal political committee or to regulate the QNC's political activities as if it were a political committee.

In BCRA, Congress acknowledged the long standing practice of QNCs creating and using these separate 527 accounts for various types of election-related activity. BCRA allows persons who are able to make electioneering communications to pay for such communications out of a

“segregated bank account” consisting of funds contributed solely by individuals who are US citizens or nationals or permanent residents. 2 U.S.C. § 434(f)(2)(E). Commission regulations confirm the ability of QNCs to do so. 11 C.F.R. 114.14(d)(2). The statute explicitly states that by allowing a person to open a segregated bank account for making electioneering communications, a person was in no way prohibited from using the funds in the account “for a purpose other than electioneering communications.” 2 U.S.C. § 434(f)(2)(E). Thus, the law allows a QNC to create and operate section 527 accounts for the purpose of financing the political activities that the QNC itself could conduct.

Accordingly, LCV, a QNC, also is permitted by Commission regulations to use the unlimited individual donations in its 527 account, “a segregated bank account into which it deposits only funds donated or otherwise provided by individuals,” 11 C.F.R. §§ 114.10(h) and (d), to pay portions of the costs of its website on which it educates voters on the position of candidates and to make communications such as the CNN television advertisement. *McConnell*, 540 U.S. at 187-88.

That BCRA allows LCV to fund the challenged activities with unlimited individual donations received in its 527 account is illustrated by the following comparison. Consistent with BCRA and the FEC’s implementing regulations, LCV would have been explicitly permitted to finance the CNN advertisement referenced in the Reason to Believe Finding from its 527 account just three days before the Presidential election as long as it paid for it with individual contributions and complied with the applicable reporting provisions. Such an advertisement would be an “electioneering communication” that explicitly can be funded from a 527 segregated bank account. 2 U.S.C. § 434(f)(2)(E); 11 C.F.R. 114.14(d)(2). Given that this communication

26044151716

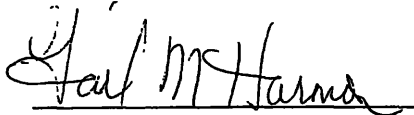
run immediately before an election when it would have maximum electoral impact can appropriately be paid for by LCV from its current 527 account, it would be illogical and inconsistent with the legislative history and constitutional analysis of BCRA to find that the very same advertisement run six or eleven months earlier must be financed with funds raised subject to the restrictions of FECA.

LCV can certainly conduct the activities that have been challenged by the Commission on its own using its general treasury funds. The mere fact that LCV has chosen to fund them from its 527 account, rather than from its other general treasury funds, does not change the regulatory scheme applicable to QNCs or somehow convert the 527 account into a political committee subject to the PASO standard and the allocation rules of the FEC. Indeed, it would prove that no good deed goes unpunished if simply by informing donors of potential federal tax liability and assisting them with federal tax compliance through creation of a 527 bank account, LCV has lost all protection for its political activities funded from that account.

IV. Conclusion

Accordingly, because LCV is materially different in its structure and operations from ABC and because LCV is a QNC, constitutionally entitled to engage in various political activities, the FEC cannot apply the reasoning of AO-2003-37 to LCV and its 527 account and regulate them as a political committee.

Respectfully submitted,



Gail M. Harmon

Anne Spielberg

Paul J. Murphy

Harmon, Curran, Spielberg & Eisenberg, LLP

1726 M Street, N.W., Suite 600

Washington, DC 20036

202-328-3500

Counsel for LCV and Respondents

February 4, 2005

26044151717